

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

**JERRY LEWIS DEDRICK,** )  
Petitioner, )  
v. ) CIV-05-1203-R  
UNITED STATES OF AMERICA, )  
Respondent. )

## ORDER

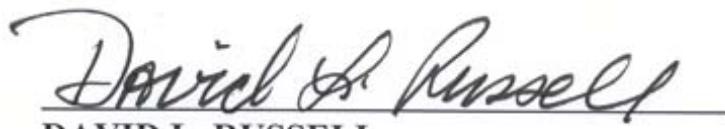
Before the Court are the Report and Recommendation of United States Magistrate Judge Gary M. Purcell entered October 24, 2005 and “Petitioner’s Motion to Objection to Report and Recommendation” filed November 8, 2005, which the Court treats as an Objection to the Report and Recommendation. In his Objection, Petitioner objects to the recharacterization of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. Petitioner does not explain the basis for his objection but launches a diatribe against the sentencing judge.

Upon review of the petition and the Report and Recommendation, the Court fully concurs with the Magistrate Judge that the petition should be treated as a § 2255 motion and, because it is successive, dismissed for lack of jurisdiction inasmuch as Petitioner has failed to obtain the requisite authorization from the Fifth Circuit Court of Appeals to proceed with a successive § 2255 motion; Petitioner already has a motion for authorization to proceed with another successive § 2255 motion pending before the Fifth Circuit Court of Appeals; and

even if Petitioner receives authorization to proceed with this successive § 2255 motion, it will have to be filed in the United States District Court for the Western District of Oklahoma.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety, the petition herein is construed as a § 2255 motion to vacate which is successive and DISMISSED without prejudice because it is premature and the Court lacks jurisdiction to consider it.

**IT IS SO ORDERED this 10<sup>th</sup> day of November, 2005.**



DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE